



**THE ATTORNEY GENERAL
OF TEXAS**

August 28, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Ms. Mary Ann Courter
Legal Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

Dear Ms. Courter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6993; this decision is OR89-282.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas Department of Public Safety (the department) received a request for "the addresses of all the police agencies for the entire state." You submit as responsive to this requests two lists compiled by the Statistical Services Division of the department: one a list of Texas sheriffs; the other a list of Texas chiefs of police and city marshals. Both contain the addresses and telephone numbers of sheriffs, police chiefs and city marshals. We note at the outset that the requestor asked only for the addresses of all police agencies in the state. The lists were compiled from information derived from survey response forms submitted to the individual peace officers. The response forms inquire of the peace officer whether the address provided is a business address or a home address, and whether the telephone number provided is a business telephone number or a home telephone number. Some respondents indicate that their business address is their home address too, and that their business telephone number serves as their home telephone number. The department seeks to

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withhold the requested information from required public disclosure under section 3(a)(17) of the act.

Section 3(a)(17) protects the home addresses and telephone numbers of "peace officers as defined by article 2.12, Code of Criminal Procedure . . . or by Section 51.212, Texas Education Code." Unlike non-peace officer public employees, a peace officer need not affirmatively request confidentiality for this information under section 3A of the Open Records Act. See Open Records Decision Nos. 516 (1989); 506 (1988). This exception is designed to protect peace officers from harassment. See Open Records Decision No. 506 (1988).

As public officials, sheriffs, city marshalls and chiefs of police must be available to the public during their normal working hours. Their business addresses and telephone numbers are public information. The compiled lists of addresses and telephone numbers do not reveal whether any of these officials happen to use their home addresses and telephone numbers as their business address and telephone numbers; the list simply lists, by county, the officials, their addresses and their telephone numbers. A degree of reasonableness must be grafted on to the 3(a)(17) prohibition against disclosure of the home address of a peace officer. The purpose and policy behind the protection from disclosure embodied in section 3(a)(17) is not thwarted by releasing these lists, if the addresses and telephone numbers listing home and business as one and the same are in fact where these officials regularly conduct their official duties. We note that on the survey response forms you submitted to this office, which were presumably used to compile the lists, a final question inquires whether the address and/or telephone number listed is a home address and/or home telephone number, and if so, whether it is where the official is officially and normally contacted to conduct police business. In the response forms you submitted, all but two respondents indicated that the address and telephone number supplied was in fact where they are normally and officially contacted to conduct police business; several left the response box for this question blank. However, one of the respondents who answered this inquiry negatively is listed in a publicly available directory as having precisely the address and telephone number listed on the response form. The other respondent who answered this inquiry in the negative, a chief of police, was contacted by this office at the number listed on the response form. The number was the city hall of the city where he was chief of police; the address listed was that of the city hall. The information on the lists is not protected from public disclosure under

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section 3(a)(17). It must be released although material extraneous to the request need not be provided as it has not been requested. The summary response form, on the other hand, indicating whether or not the address and telephone number is a home address or home telephone number, may be withheld.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-282.

Yours very truly,

*Open Government Section
of the Opinion Committee*
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of the Opinion Committee
Prepared by David A. Newton
Assistant Attorney General

DAN/bc

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